

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:14 CR 55**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
DAVID M. TAYLOR,)	
)	
Defendant.)	
_____)	

THIS CAUSE came before the undersigned pursuant to a Violation Report (#73) filed by the United States Probation Office alleging that Defendant had violated terms and conditions of his prehearing release. At the call of this matter on for hearing, it appeared that Defendant was present with his counsel, Jeffrey W. Gillette, and the Government was present through AUSA David Thorneloe. From the evidence offered and the admissions of Defendant, and the records in this cause, the Court makes the following findings.

Findings: At the call of this matter, Defendant, by and through his attorney, admitted the allegations contained in the Violation Report. The Government introduced, without objection, the Violation Report into evidence. Defendant was charged in a Petition (#54) with violations of conditions of his supervised release. On May 24, 2017, the undersigned allowed a motion (#68) for Defendant to be

released on terms and conditions of release, which included that Defendant would be allowed to participate in an inpatient treatment program at the Swain Recovery Center. (#69, No. (8)(r) and (8)(y)). Defendant was required by the terms and conditions of release to immediately advise the United States Probation Office if Defendant left treatment or failed to complete treatment. On June 4, 2017, Defendant voluntarily left the Swain Recovery Center and did not report to the United States Probation Office nor did he report his leaving to his United States Probation Officer.

Discussion. 18 U.S.C. § 3148(b)(1) provides as follows: The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer

(1) finds that there is----

(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

(B) clear and convincing evidence that the person has violated any other condition of release; and

(2) finds that ---

(A) based on the factors set forth in section 3142(g) of this title, there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

(B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a

danger to the safety of any other person or the community.”

Based upon the evidence, the undersigned finds by clear and convincing evidence that Defendant has violated his terms and conditions of release by leaving the inpatient treatment program at Swain Recovery Center and failing to notify the probation officer or his probation officer that he had voluntarily left the treatment program. The defendant absconded from supervision.

The undersigned further finds that based upon the factors set forth in 18 U.S.C. § 3142(g), it appears there is no condition or combination of conditions of release that will assure that Defendant will not pose a danger to the safety of any other person or the community. Defendant’s criminal record supports this conclusion.

The undersigned further finds it is unlikely that Defendant will abide by any condition or combination of conditions of release. As a result of the above referenced findings, the undersigned has determined to enter an order revoking the unsecured bond and the terms of presentence release previously issued in this matter and entering an order detaining Defendant.

ORDER

IT IS, THEREFORE, ORDERED that the unsecured bond and the terms and conditions of pretrial release (#69) and (#70) are hereby **REVOKED** and it is **ORDERED** that Defendant be detained pending further proceedings in this matter.

Signed: June 20, 2017

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

